

Appl. No. 10/667,056
AmndtAF dated October 26, 2005
Reply to Office Action of August 26, 2005

REMARKS

Applicant has carefully reviewed the Final Office Action mailed August 26, 2005. Favorable reconsideration is respectfully requested in light of the above amendments and the following comments. Claims 1-2 and 4-12 have been canceled, leaving claims 13 and 15-20 pending. No new matter has been entered as a result of these amendments, and no new issues have been raised. Thus, entry and consideration of this After-Final Amendment is respectfully requested.

Applicant respectfully traverses the Examiner's rejection of claims 1-4, 6, 10 and 12 under 35 U.S.C. §102(b) as anticipated by Alchas, U.S. Patent No. 5,030,210. Claims 1-4, 6, 10 and 12 have been canceled, thereby rendering the rejection moot. Applicant does not concede the correctness of the rejection itself or the Examiner's interpretation of the reference as discussed at page 5 of the Office Action. Favorable reconsideration is respectfully requested.

Applicant respectfully traverses the Examiner's rejection of claims 1-6, 10 and 12-20 under 35 U.S.C. §102(b) as anticipated by Friedman, U.S. Patent No. 1,719,428. Apparently, claims 18-20 are not intended to be included in this rejection, as they have been indicated by the Examiner to be allowable. Claims 1-6, 10 and 12 have been canceled, leaving claims 13 and 15-17 subject to this rejection. In order to anticipate, the cited reference must disclose each and every claimed element. Friedman fails to do so.

In particular, it is noted that claim 13 (from which claims 15-17 depend) requires a polymer sheath that has an angled slit extending radially through the polymer sheath at an angle such that the depth of the slit is greater than the thickness of the polymer sheath. While Friedman does disclose curved slits 10, defining dilators 7, it is noted that these slits appear to extend straight through the outer body member of Friedman's vaginal syringe. Consequently, one of ordinary skill in the art will recognize that these curved slits have a depth that is equal to that of the outer body member through which the curved slits extend.

Clearly, Friedman does not disclose a polymer sheath having an angled slit extending radially through the polymer sheath, having a slit depth greater than the sheath thickness. Consequently, Friedman fails to disclose each and every claimed element and therefore cannot be considered as anticipatory. Favorable reconsideration is respectfully requested.

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Applicant respectfully traverses the Examiner's rejection of claims 1, 6, 7, 10 and 12 under 35 U.S.C. §102(b) as anticipated by Yurek et al., U.S. Patent No. 5,690,644. Claims 1, 6, 7, 10 and 12 have been canceled, thereby rendering the rejection moot. Applicant does not concede the correctness of the rejection. Favorable reconsideration is respectfully requested.

Applicant respectfully traverses the Examiner's rejection of claims 8, 9 and 11 under 35 U.S.C. §103(a) as unpatentable over Yurek et al., U.S. Patent No. 5,690,644, Friedman, U.S. Patent No. 1,719,428, and Alchas, U.S. Patent No. 5,030,210. Claims 8, 9 and 11 have been canceled, thereby rendering the rejection moot. Applicant does not concede the correctness of the rejection. Favorable reconsideration is respectfully requested.

Applicant respectfully traverses the Examiner's rejection of claims 5 and 13-17 under 35 U.S.C. §103(a) as unpatentable over Alchas, U.S. Patent No. 5,030,210. The Examiner has asserted that it would be obvious to modify the catheter disclosed by Alchas to incorporate an angled slit that extends at an angle of less than 90 degrees to the outer surface of the polymer sheath, thereby having a slit depth that is greater than the sheath thickness. This is not correct.

As discussed in the previous Amendment, Alchas describes a valve assembly that is designed to readily open in response to pressure differences between an inside of the valve and an outside of the valve. As discussed, for example, at column 3, lines 24-29 of Alchas, this reference is directed to a valve assembly that can readily open in response to medication being fed into the catheter at a pressure greater than blood pressure in order to introduce the medication into the bloodstream. Alchas relies upon a slit that is perpendicular to the outer surface. While Alchas notes (column 6) possible orientations for the slit, one of skill in the art, having read the reference, would understand Alchas to be referring to altering the orientation of the slit by, for example, having the slit extend radially across, rather than axially. Alchas does not describe or suggest angling the slit as recited in the presently claimed invention.

In contrast, the claimed invention relies upon an angled slit expressly to avoid opening as a result of pressure within the catheter lumen. Angling the slit permits fluid flow through the catheter lumen to bias the angled slit into a closed position. One of ordinary skill in the art would not be motivated to significantly alter Alchas in this fashion, as such a modification would materially change the function and operation of Alchas' catheter. Such a modification cannot be

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considered as obvious, as well established in the case law. Favorable reconsideration is respectfully requested.

Applicant respectfully traverses the Examiner's rejection of claims 13-17 under 35 U.S.C. §103(a) as unpatentable over Yurek et al., U.S. Patent No. 5,690,644, in view of Alchas, U.S. Patent No. 5,030,210. The Examiner relies upon Alchas to suggest the claimed angled slit having a depth greater than the sheath thickness. However, as discussed above, one of ordinary skill in the art would not interpret Alchas as making any such suggestion. Favorable reconsideration is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,



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